

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO: 22-80418-CV-MIDDLEBROOKS

CITY OF ATLANTA POLICE
OFFICERS' PENSION PLAN and
CITY OF ATLANTA FIREFIGHTERS'
PENSION PLAN, Individually and on
behalf of all others similarly situated,

Plaintiffs,

v.

CELSIUS HOLDINGS, INC.
JOHN FIELDLY, and
EDWIN NEGRON-CARBALLO.,

Defendants.

ORDER ADOPTING REPORT AND RECOMMENDATION OF MAGISTRATE JUDGE

THIS CAUSE comes before the Court on United States Magistrate Judge Bruce E. Reinhart's Report and Recommendation ("Report"), entered February 13, 2023. (DE 55). The Report recommends that I grant Defendants' Motion to Dismiss the Amended Complaint (DE 47) as to Defendant Fieldly and deny as to Defendants Negron-Carballo and Celsius. (DE 55 at 36).

On February 15, 2023, Plaintiffs filed a Notice of Non-Objection. (DE 57). On March 6, 2023, Defendants Negron-Carballo and Celsius filed joint objections. (DE 60). And on March 13, 2023, Plaintiffs filed a response in opposition. (DE 61). Defendants did not file a reply.

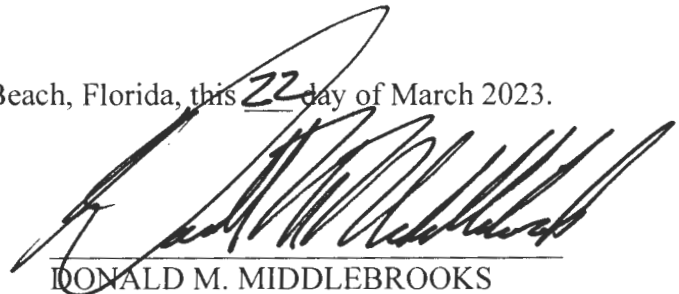
I have conducted an independent *de novo* review of the Report and the record as a whole. Having carefully considered this record, the briefing on the Defendants' objections, and applicable law, I agree with Judge Reinhart's findings and conclusions, and I find that the reasoning in the Report is accurate and thorough.

Accordingly, it is **ORDERED AND ADJUDGED** that

1. Defendants' Objections (DE 60) are **OVERRULED**.
2. Magistrate Judge Reinhart's Report and Recommendation (DE 55) is **ADOPTED**.
3. Defendants' Motion to Dismiss the Amended Complaint (DE 47) is **GRANTED IN PART AND DENIED IN PART**.

- a. Defendants' Motion is **GRANTED** as to Defendant FIELDLY and **DENIED** as to Defendants EDWIN NEGRON-CARBALLO and CELSIUS HOLDINGS, INC.

SIGNED in Chambers at West Palm Beach, Florida, this 22 day of March 2023.

A handwritten signature in black ink, appearing to read 'Donald M. Middlebrooks', is written over a horizontal line.

DONALD M. MIDDLEBROOKS
UNITED STATES DISTRICT JUDGE

cc: Magistrate Judge Bruce E. Reinhart
Counsel of Record